

§ 433.1

COOPERATIVE AGREEMENTS AND INCENTIVE PAYMENTS

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AUTHORITY: Sec. 1102 of the Social Security Act, (42 U.S.C. 1302).

SOURCE: 43 FR 45201, Sept. 29, 1978, unless otherwise noted.

§ 433.1 Purpose.

This part specifies the rates of FFP for services and administration, and prescribes requirements, prohibitions, and FFP conditions relating to State fiscal activities.

Subpart A—Federal Matching and General Administration Provisions

§ 433.8 [Reserved]

§ 433.10 Rates of FFP for program services.

(a) *Basis.* Sections 1903(a)(1), 1903(g), 1905(b), 1905(y), and 1905(z) provide for payments to States, on the basis of a Federal medical assistance percentage, for part of their expenditures for services under an approved State plan.

(b) *Federal medical assistance percentage (FMAP)—Computations.* The FMAP is determined by the formula described in section 1905(b) of the Act. Under the formula, if a State's per capita income

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is equal to the national average per capita income, the Federal share is 55 percent. If a State's per capita income exceeds the national average, the Federal share is lower, with a statutory minimum of 50 percent. If a State's per capita income is lower than the national average, the Federal share is increased, with a statutory maximum of 83 percent. The formula used in determining the State and Federal share is as follows:

$$\text{State Share} = [(\text{State per capita income})^{2/3} / (\text{National per capita income})^{2/3}] \times 45 \text{ percent}$$

Federal share = 100 percent minus the State share (with a minimum of 50 percent and a maximum of 83 percent)

The formula provides for squaring both the State and national average per capita incomes; this procedure magnifies any difference between the State's income and the national average. Consequently, Federal matching to lower income States is increased, and Federal matching to higher income States is decreased, within the statutory 50–83 percent limits. The FMAP for Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa is set by statute at 50 percent and is subject to dollar limitations specified in section 1108 of the Act.

(c) *Special provisions.* (1) Under section 1903(a)(5) of the Act, the Federal share of State expenditures for family planning services is 90 percent.

(2) Under section 1905(b), the Federal share of State expenditures for services provided through Indian Health Service facilities is 100 percent.

(3) Under section 1903(g), the FMAP is reduced if the State does not have an effective program to control use of institutional services.

(4) Under section 1905(b) of the Social Security Act, the Federal share of State expenditures described in § 433.11(a) for services provided to children, is the enhanced FMAP rate determined in accordance with § 457.622(b) of this chapter, subject to the conditions explained in § 433.11(b).

(5)(i) Under section 1933(d) of the Act, the Federal share of State expenditures for Medicare Part B premiums described in section 1905(p)(3)(A)(ii) of the Act on behalf of Qualifying Individuals

described in section 1902(a)(10)(E)(iv) of the Act, is 100 percent, to the extent that the assistance does not exceed the State's allocation under paragraph (c)(5)(ii) of this section. To the extent that the assistance exceeds that allocation, the Federal share is 0 percent.

(ii) Under section 1933(c)(2) of the Act and subject to paragraph (c)(5)(iii) of this section, the allocation to each State is equal to the total allocation specified in section 1933(g) of the Act multiplied by the Secretary's estimate of the ratio of the total number of individuals described in section 1902(a)(10)(E)(iv) of the Act in the State to the total number of individuals described in section 1902(a)(10)(E)(iv) of the Act for all eligible States. In estimating that ratio, the Secretary will use data from the U.S. Census Bureau.

(iii) If, based on projected expenditures for a fiscal year, or for a shorter period for which funding is available under section 1933 of the Act, the Secretary determines that the expenditures described in paragraph (c)(5)(i) of this section for one or more States are projected to exceed the allocation made to the State, the Secretary may adjust each State's fiscal year allocation, as follows:

(A) The Secretary will compare each State's projected total expenditures for the expenses described in paragraph (c)(5)(i) of this section to the State's initial allocation determined under paragraph (c)(5)(ii) of this section, to determine the extent of each State's projected surplus or deficit.

(B) The surplus of each State with a projected surplus, as determined in accordance with paragraph (c)(5)(iii)(A) of this section will be added together to arrive at the Total Projected Surplus.

(C) The deficit of each State with a projected deficit, as determined in accordance with paragraph (c)(5)(iii)(A) of this section will be added together to arrive at the Total Projected Deficit.

(D) Each State with a projected deficit will receive an additional allocation equal to the amount of its projected deficit, or a prorated amount of such deficit, if the Total Projected Deficit is greater than the Total Projected Surplus. Except as described in para-

graph (c)(5)(iii)(E) of this section, the amount to be reallocated from each State with a projected surplus will be equal to $A \times B$, where A equals the Total Projected Deficit and B equals the amount of the State's projected surplus as a percentage of the Total Projected Surplus.

(E) If the Total Projected Deficit determined under paragraph (c)(5)(iii)(C) of this section is greater than the Total Projected Surplus determined under paragraph (c)(5)(iii)(B) of this section, each State with a projected deficit will receive an additional allocation amount equal to the amount of the Total Projected Surplus multiplied by the amount of the projected deficit for such State as a percentage of the Total Projected Deficit. The amount to be reallocated from each State with a projected surplus will be equal to the amount of the projected surplus.

(iv) CMS will notify States of any changes in allotments resulting from any reallocations.

(v) The provisions in paragraph (c)(5) of this section will be in effect through the end of the period for which funding authority is available under section 1933 of the Act.

(6)(i) *Newly eligible FMAP*. Beginning January 1, 2014, under section 1905(y) of the Act, the FMAP for a State that is one of the 50 States or the District of Columbia, including a State that meets the definition of expansion State in § 433.204(b), for amounts expended by such State for medical assistance for newly eligible individuals, as defined in § 433.204(a)(1), will be an increased FMAP equal to:

(A) 100 percent, for calendar quarters in calendar years (CYs) 2014 through 2016;

(B) 95 percent, for calendar quarters in CY 2017;

(C) 94 percent, for calendar quarters in CY 2018;

(D) 93 percent, for calendar quarters in CY 2019;

(E) 90 percent, for calendar quarters in CY 2020 and all subsequent calendar years.

(ii) The FMAP specified in paragraph (c)(6)(i) of this section will apply to

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amounts expended by a State for medical assistance for newly eligible individuals in accordance with the requirements of the methodology applied by the State under § 433.206.

(7)(i) *Temporary FMAP increase.* During the period January 1, 2014, through December 31, 2015, under section 1905(z)(1) of the Act for a State described in paragraph (c)(7)(ii) of this section, the FMAP determined under paragraph (b) of this section will be increased by 2.2 percentage points.

(ii) A State qualifies for the targeted increase in the FMAP under paragraph (c)(7)(i) of this section, if the State:

(A) Is an expansion State, as described in § 433.204(b) of this section;

(B) Does not qualify for any payments on the basis of the increased FMAP under paragraph (c)(6) of this section, as determined by the Secretary; and

(C) Has not been approved by the Secretary to divert a portion of the disproportionate share hospital allotment

for the State under section 1923(f) of the Act to the costs of providing medical assistance or other health benefits coverage under a demonstration that is in effect on July 1, 2009.

(iii) The increased FMAP under paragraph (c)(7)(i) of this section is available for amounts expended by the State for medical assistance for individuals that are not newly eligible as defined in § 433.204(a)(1).

(8) *Expansion State FMAP.* Beginning January 1, 2014, under section 1905(z)(2) of the Act, the FMAP for an expansion State defined in § 433.204(b), for amounts expended by such State for medical assistance for individuals described in § 435.119 of this chapter who are not newly eligible as defined in § 433.204(a)(1), and who are nonpregnant childless adults with respect to whom the State may require enrollment in benchmark coverage under section 1937 of the Act, will be determined in accordance with the expansion State FMAP formula in paragraph (c)(8)(i).

$$F + (T \times (N - F))$$

F = The base FMAP for the State determined under paragraph (b) of this section, subject to paragraph (c)(7) of this section.

T = The transition percentage specified in paragraph (c)(8)(ii) of this section.

N = The Newly Eligible FMAP determined under paragraph (c)(6) of this section.

(i) *Expansion State FMAP.*

(ii) *Transition percentage.* For purposes of paragraph (c)(8)(i) of this section, the transition percentage is equal to:

(A) 50 percent, for calendar quarters in CY 2014;

(B) 60 percent, for calendar quarters in CY 2015;

(C) 70 percent, for calendar quarters in CY 2016;

(D) 80 percent, for calendar quarters in CY 2017;

(E) 90 percent, for calendar quarters in CY 2018; and

(F) 100 percent, for calendar quarters in CY 2019 and all subsequent calendar years.

(Sections 1902(a)(10), 1933 of the Social Security Act (42 U.S.C. 1396a), and Pub. L. 105–33) [43 FR 45201, Sept. 29, 1978, as amended at 46 FR 48559, Oct. 1, 1981; 51 FR 41350, Nov. 14, 1986; 54 FR 21066, May 16, 1989; 66 FR 2666, Jan. 11, 2001; 70 FR 50220, Aug. 26, 2005; 71 FR 25092, Apr. 28, 2006; 73 FR 70893, Nov. 24, 2008; 78 FR 19942, April 2, 2013]